

**REMARKS**

In the Office Action ("OA")<sup>1</sup> mailed March 9, 2006, the Examiner rejected claims 1-21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,101,352 to Rembert ("*Rembert*"). Applicants hereby cancel claims 1-8, 18, and 19, and amend claims 9-12, 20, and 21 to more clearly recite the features of the claims. Applicants also amend claims 15-17 to correct minor typographical errors. Claims 9-17, 20, and 21 remain pending. In view of the following remarks, Applicants respectfully traverse the Examiner's rejections of the claims under 35 U.S.C. § 103(a).

**§ 103(a) Rejections**

Applicants respectfully traverse the rejection under 35 U.S.C. § 103(a) because a case of obviousness has not been established. To establish a prima facie case of obviousness, three basic criteria must be met. First, the prior art reference as modified must teach or suggest all the claim elements. (See M.P.E.P. § 2143.03 (8<sup>th</sup> ed. 2001)). Second, there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings. (See M.P.E.P. § 2143 (8<sup>th</sup> ed. 2001)). Third a reasonable expectation of success must exist. Moreover, each of these requirement must "be found in the prior art, and not be based on applicant's disclosure." (M.P.E.P. § 2143.03 (8<sup>th</sup> ed. 2001)).

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<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

With respect to claims 9-17, 20, and 21 under 35 U.S.C. § 103(a), a prima facie case of obviousness has not been established based on *Rembert*, for at least the reason that *Rembert* fails to teach each and every element of these claims. With respect to claim 9, the Examiner first alleged that *Rembert* discloses: “reviewing the manufacturing schedules every predetermined period” (OA at page 2, ¶4), but admitted that *Rembert* fails to teach “a demand forecast predetermined period that is shorter than a monthly basis” (OA at page 3, lines 13-14), as recited in claim 9. The Examiner then stated, in an apparent Official Notice, that “it would have been obvious to one of ordinary skill in the art at the time the invention was [made] to apply the teaching of *Rembert*” because although “*Rembert* does not explicitly teach a demand forecast period of less than a month, the *Rembert* system is enabled to use such a timer period to determine a production schedule” (OA at page 3, lines 17-19).

*Rembert* discloses a “material requirements planning system” (MRPS) that allows a user who makes a product having a number of styles and a wide variety of options to employ an material requirement planning system without high maintenance overhead (*Rembert* abstract). *Rembert* teaches a work order control module that allows a user to enter work orders into the system and to track them until they are completed (*Rembert* col. 6, lines 54-67). While *Rembert*’s MRPS performs various functions when the user requests an estimate, *Rembert* does not teach or disclose “preparing manufacturing schedules of every predetermined periods of time which are included in several months based on of a demand forecast on a predetermined period basis, the manufacturing schedules of the several months being updated every predetermined period while fixing the manufacturing schedule of one or more recent predetermined

periods and issuing the updated manufacturing schedules of several months" (emphasis added), as recited in claim 9. Therefore, *Rambert* fails to teach or suggest each and every element of claim 9.

Furthermore, with respect to claim 9, the Examiner did not fully address the elements recited in claim 9, other than to generally conclude that "it would have been obvious, at the time of the invention, for one of ordinary skill in the art... to [modify] the Rambert system..." (OA at page 3, line 20 to page 4, line 2). As M.P.E.P. § 2144.03(B) makes clear,

there must be some form of evidence in the record to support an assertion of common knowledge ... general conclusions concerning what is "basic knowledge" or "common sense" to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection. ... The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to official notice and be allowed to challenge the assertion in the next reply after the Office action in which the common knowledge statement was made

(emphasis added, internal citations omitted). Applicants respectfully submit that the Examiner's general conclusions are not sufficient to support a rejection under 35 U.S.C. § 103(a). Applicants request that the Examiner provide documentary evidence, supported with sound technical and scientific reasoning, teaching each and every element of Applicants' dependent claims. For at least these additional reasons, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claim 9 under 35 U.S.C. § 103(a) as being unpatentable over *Rambert*. The rejection of dependent claims 10-17 is unsupportable for the reasons stated above with regard to

their allowable base claim. Accordingly, Applicants request withdrawal of the rejection under 35 U.S.C. § 103(a) and the timely allowance of claims 9-17.

Independent claim 20, although of different scope, recites elements similar to elements recited by independent claim 9. Therefore, Applicants submit that the rejection of claim 20 is not supported by *Rembert*, for at least the reasons given with respect to independent claim 9, and respectfully request that the Examiner reconsider and withdraw the rejection of claim 20 under 35 U.S.C. § 103(a) as being unpatentable over *Rembert*. The rejection of dependent claim 21 is unsupportable for at least the reasons stated above with regard to their respective allowable base claims. Accordingly, Applicants request withdrawal of the rejection under 35 U.S.C. § 103(a) and the timely allowance of claims 20 and 21.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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By: 

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